

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

AMENDED IN ASSEMBLY MARCH 31, 2009

AMENDED IN ASSEMBLY MARCH 17, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 42

Introduced by Assembly Member Blakeslee

December 1, 2008

An act to add Section 565 to the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 42, as amended, Blakeslee. Electricity: Pacific Gas and Electric Company: seismic fault.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities including electrical corporations, as defined.

Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to conduct various assessments and forecasts on energy industry supply, production, transportation, delivery and distribution, demand, and prices.

This bill would require Pacific Gas and Electric Company, in furtherance of the recommendations made by the Energy Commission, to conduct seismic fault studies or surveys *in areas* at or near the vicinity of the Diablo Canyon nuclear power plant *Nuclear Power Plant* in order

to maintain reliable operation of the electrical grid and mitigate impacts to customer rates that could result from a seismic event. Because a violation of this requirement would be a crime, this bill would impose a state-mandated local program *by creating a new crime*. The bill would require the commission, in consultation with the California Geologic Survey and the Seismic Safety Commission, to conduct or facilitate a peer review of any fault studies or surveys conducted pursuant to that requirement within 120 days of receipt of a final study or survey. The bill would require the Pacific Gas and Electric Company to fund all costs associated with a peer review of any studies or surveys and would require the commission to authorize the utility to fully recover, in its ~~electricity~~ *generation* procurement rates, all reasonable costs associated with any studies, surveys, or peer review required pursuant to the bill.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) This bill would state the findings and declarations of the Legislature concerning the need for special legislation.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In issuing Decision 07-03-044, the Public Utilities
4 Commission authorized an expenditure of sixteen million eight
5 hundred thousand dollars (\$16,800,000) of ratepayer funds to
6 explore the feasibility of relicensing the Diablo Canyon nuclear
7 powerplant.

8 (b) The Public Utilities Commission, regarding the expenditure
9 of those funds, said that Pacific Gas and Electric Company should
10 defer, to the extent feasible, its work, its own study, and associated
11 spending, until after the State Energy Resources Conservation and
12 Development Commission (Energy Commission) issues its findings
13 and conclusions pursuant to Chapter 722 of the Statutes of 2006,
14 and that Pacific Gas and Electric Company should incorporate the

1 findings and recommendations of that Energy Commission
2 assessment in its own work.

3 (c) The assessment made pursuant to Chapter 722 of the Statutes
4 of 2006 included several findings and recommendations; in
5 particular, the Energy Commission found that Pacific Gas and
6 Electric Company should use three-dimensional geophysical
7 seismic reflection mapping and other advanced techniques to
8 explore fault zones near Diablo Canyon.

9 (d) The July 2007 magnitude 6.8 Japan Sea earthquake located
10 16 kilometers from Tokyo Electric Power Company's
11 Kashiwazaki-Kariwa Nuclear Power Plant shut down the facility
12 at a cost of some hundreds of millions of dollars per month.

13 (e) In November 2008, the United States Geological Survey
14 identified a previously unidentified offshore fault approximately
15 one kilometer west of Diablo Canyon nuclear powerplant with an
16 estimated ability to generate a magnitude 6.5 earthquake.

17 SEC. 2. Section 565 is added to the Public Utilities Code, to
18 read:

19 565. (a) (1) Pacific Gas and Electric Company shall, in
20 furtherance of the recommendations made by the Energy
21 Commission pursuant to paragraph (8) of subdivision (a) of Section
22 25303 of the Public Resources Code, conduct seismic fault studies
23 or surveys, including, but not limited to, three-dimensional
24 geophysical seismic reflection mapping, ~~for the area in areas at~~
25 ~~or near the Diablo Canyon nuclear powerplant~~ *Nuclear Power*
26 *Plant*, in order to maintain reliable operation of the electrical grid
27 and mitigate impacts to customer rates that could result from a
28 seismic event. ~~Pacific Gas and Electric Company shall seek funding~~
29 ~~for the studies or surveys in its application to the commission for~~
30 ~~license renewal of the Diablo Canyon nuclear powerplant, in~~
31 ~~compliance with commission Decision 07-03-044.~~

32 (2) The Energy Commission, in consultation with the California
33 Geologic Survey and the Seismic Safety Commission, may
34 participate in the development of study or survey designs.

35 (b) (1) The Energy Commission, in consultation with the
36 California Geologic Survey and the Seismic Safety Commission,
37 shall conduct or facilitate a peer review of any studies or surveys
38 conducted pursuant to subdivision (a) within 120 days of receipt
39 of a final study or survey.

1 (2) The Energy Commission may enter into agreements with
2 qualified scientists with expertise in fault imaging and character
3 and behavior studies to conduct an external scientific peer review
4 of the scientific basis for any fault study or survey.

5 (3) The Energy Commission shall include the findings and
6 recommendations of any studies or surveys conducted pursuant to
7 subdivision (a) in the integrated energy policy report as updates
8 pursuant to subparagraph (D) of paragraph (8) of subdivision (a)
9 of Section 25303 of the Public Resources Code.

10 (4) Pacific Gas and Electric Company shall be responsible for
11 funding all costs associated with a peer review of any studies or
12 surveys conducted pursuant to subdivision (a).

13 (c) The commission shall allow Pacific Gas and Electric
14 Company to fully recover, in its ~~electricity~~ *electricity generation* procurement
15 rates, all reasonable costs associated with any studies or surveys
16 required pursuant to subdivision (a) and the peer review required
17 pursuant to subdivision (b). The commission shall expedite
18 issuance of its decision approving the recovery of costs as specified
19 in this section, so that the decision is made within 120 days of
20 filing the application.

21 SEC. 3. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

30 SEC. 4. The Legislature finds and declares that a special law
31 is necessary and that a general law cannot be made applicable
32 within the meaning of Section 16 of Article IV of the California
33 Constitution because of unique circumstances pertaining to Pacific
34 Gas and Electric Company.